



PROPOSED RULE-MAKING
(RCW 34.05.320)

CR-102 (7/23/95)

Agency: Public Disclosure Commission

- ☒ Original Notice
☐ Supplemental Notice
to WSR _____
☐ Continuance of WSR

Proposal Statement of inquiry was filed as WSR 00-16-137; or

☐ Proposal is exempt under RCW 34.05.310(4).

(a) Title of rule (Describe Subject):

WAC 390-16-226 Loans

Purpose: To implement PDC Interpretation 96-02 and Attorney General Opinion 2000 No. 4.

Other identifying information:

(b) Statutory authority for adoption:

RCW 42.17.370(1)

Statute being implemented:

RCW 42.17.720(3) and RCW 42.17.125(3)

(c) Summary:

The rule amendment would implement PDC Interpretation 69-02 and AGO 2000 No.4 to address commercial loans to candidates, their committees or campaigns. The amendment will also explain the circumstances under which campaign contributions may be used to repay the loans.

Reasons supporting proposal:

The rule will clarify RCW 42.17.720(3) and RCW 42.17.125(3).

(d) Name of Agency Personnel Responsible for:

Office Location

Telephone

1. Drafting	Doug Ellis	PDC, 711 Capitol Way, Rm 403, Olympia	(360) 664-2735
2. Implementation	Doug Ellis	PDC, 711 Capitol Way, Rm 403, Olympia	(360) 664-2735
3. Enforcement	Phil Stutzman	PDC, 711 Capitol Way, Rm 403, Olympia	(360) 664-8853

(e) Name of proponent (person or organization):

Public Disclosure Commission

- ☐ Private
☐ Public
☒ Governmental

(f) Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

(g) Is rule necessary because of:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Citation:

(h) Hearing location:

Commission Hearing Room
Evergreen Plaza Building
711 Capitol Way, Room 206
Olympia, WA

Date: October 24, 2000

Time: 9:00 a.m.

Assistance for persons with disabilities: Ruthann Bryant (360) 753-1111

NAME

Vicki Rippie

SIGNATURE

TITLE Executive Director

DATE

9/20/00

Submit written comments to:

Doug Ellis
Public Disclosure Commission
PO Box 40908
Olympia, WA 98504-0908
Fax (360) 753-1112 by October 20, 2000

DATE OF INTENDED ADOPTION:

October 24, 2000

CODE REVISER USE ONLY

6-1-0-2000

11:59

00-19-120

(j) Short explanation of rule, its purpose, and anticipated effects:

The rule amendment would implement PDC Interpretation 96-02 and AGO 2000 No.4 to address commercial loans to candidates, their committees or campaigns. The amendment will also explain the circumstances under which campaign contributions may be used to repay the loans.

The rule will clarify RCW 42.17.720(3) and RCW 42.17.125(3) and assist candidates in complying with the law.

Does proposal change existing rules: X YES ☐ NO If yes, describe changes:

This rule amendment would implement PDC Interpretation 96-02 which addresses commercial loans to candidates, their committees or campaigns.

(k) Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ YES. Attach copy of small business economic impact statement.
A copy of the statement may be obtained by writing to:

X NO. Explain why no statement was prepared.

The implementation of this rule does not impact small businesses. The rule would only apply to commercial lenders who loan funds to candidates, a candidates committee or a candidates campaign.

(l) Does section 201, chapter 403, Laws of 1995, apply to this rule adoption? ☐ Yes X No
Please explain:

The PDC is not an agency listed in subsection (5)(a)(i) of section 201. Further, the PDC does not voluntarily make section 201 applicable to this rule adoption pursuant to subsection (5)(a)(ii) of section 201, and to date JARRC has not made section 201 applicable to this rule adoption.

AMENDATORY SECTION (Amending WSR 93-16-064, filed 7/30/93)

WAC 390-16-226 Loans. (1) Only loans which are recorded in a written loan agreement executed at the time of the loan and properly reported may be repaid by a candidate or political committee. Surplus campaign funds under RCW 42.17.020 and 42.17.095 may only be used to return a contribution to the candidate if the contribution was properly reported as a loan from the candidate, as described in subsections (2) and (3).

(2) If any person gives or loans the candidate funds in connection with his or her campaign, the funds are not considered personal funds of the candidate. See WAC 390-17-305. Such funds are considered a contribution from the original source of the contribution under chapter 42.17 RCW and, unless the loan meets the exemption provided in RCW 42.17.720(3) and this subsection, the contribution is subject to the contribution limits provided in chapter 42.17 RCW.

(a) If a candidate or candidate's own political committee or campaign or authorized committee receives a loan from a commercial lending institution, the loan is exempt from the contribution limits of RCW 42.17.640 and WAC 390-16-310 only if all the following criteria are met:

- (i) the loan is not guaranteed by any other person;
- (ii) the loan is made in the regular course of business; and,
- (iii) the loan is made on the same terms ordinarily available to the public.

(b) A commercial loan to a candidate's own committee or campaign or authorized committee is presumed to be guaranteed by the candidate. The presumption is rebuttable by clear, cogent and convincing evidence.

(3) The amount of campaign contributions which may be used to repay a loan made by the candidate to the candidate's own political committee or campaign, or to repay a commercial loan to a candidate's own political committee or campaign where the candidate is the borrower or guarantor, is limited to the loan repayment limit in RCW 42.17.125(3) as adjusted by WAC 390-05-400. For purposes of the (((\$3,000)) loan repayment limit ((imposed by RCW 42.17.125(3))), these loans ((by a candidate)) are aggregated for each primary, general, special or recall election and must be designated accordingly by the candidate at the time the loan is made.

(4) If a candidate makes documented out-of-pocket campaign expenditures on behalf of his or her campaign expecting repayment (not intending to make an in-kind contribution), the campaign committee must repay the candidate within 21 days of the expenditure or the candidate will be deemed to have made a loan to his or her campaign committee which must qualify for repayment under subsections (1) and (2) in order for the candidate to be repaid. Undocumented out-of-pocket campaign expenditures by the candidate are in-kind contributions not eligible for repayment.